

REMARKS

Claims 1-19 are pending for further examination.

Claim 19 has been added. Support for this new claim can be found, for example, in claim 8 and paragraph 25. No new matter has been added.

Applicant respectfully requests entry of this new claim.

Claim Rejections

Claims 1-3, 5-8, 10-12, and 14-17 were rejected under 35 U.S.C. § 103(a) as unpatentable over European Patent Application EP 1054524 (Kubo et al.) in view of U.S. Patent No. 6,915,075 (Oberg et al.).

Claims 4, 9, 13 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Kubo et al. application in view of the Oberg et al. patent and U.S. Patent Application No. 2003/0161629 (Frascolla et al.).

Applicants respectfully request reconsideration.

Claim 1

Claim 1 recites that “a switching device designed to switch signals in specified working channels to specified protection channels and to switch signals in specified protection channels to specified working channels according to switching requests from the WDM system.” For example, the specification discloses a “WDM system sending accurate switching requests to the OChP transmitting module and the OchP receiving module simultaneously,” and “The OChP modules performing switching according to said switching requests from the WDM system.” (See page 9, lines 7-10). The Office action acknowledges that the Kubo et al. patent does not disclose that the switching unit 28a/28b is designed to switch signals according to switching requests from the WDM system but alleges that the Oberg et al. patent discloses this feature. Applicants respectfully disagree.

The Oberg et al. patent discloses switching working channels to pre-defined protection channels as a result of pre-defined rules and not as the result of a WDM system request. For example, the Oberg et al. patent discloses that if a regular transponder 11 becomes defective, it is detected on the receiving side by the demultiplexer 15, and the 1:4 switch 25 and the 4:1 switch 23 are switched to the position corresponding to the failed wavelength band (*see* FIG. 2 and col. 6, lines 16-32). In addition, the transponder 11 is turned off and the spare transponder 21 on the receiving side is activated by the controller in switch 23 based on the detection result of the demultiplexer 15 (*see* col. 6, lines 16-32). As such, the Oberg et al. patent does not disclose a switching device designed to switch signals in specified working channels to specified protection channels and to switch signals in specified protection channels to specified working channels “according to switching requests from the WDM system.”

Thus, it would not have been obvious to a person of ordinary skill in the art to modify the optical wavelength multiplex system of EP 1054524 with the teachings of the Oberg et al. patent so as to obtain the subject matter of claim 1.

In light of the foregoing remarks, Applicants respectfully request withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a) as unpatentable over EP 1054524 in view of the Oberg et al. patent.

In addition, the Frascolla et al. application does not disclose the features missing from EP 105424 and the Oberg et al. patent.

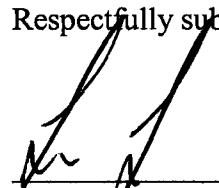
For reasons similar to the ones discussed above in connection with claim 1, Applicants respectfully request withdrawal of the rejection of independent claims 6, 10, and 15.

The dependent claims should be patentable at least for the reasons discussed above with respect to claims 1, 6, 10 and 15. Furthermore, the dependent claims recite additional features that make those claims independently patentable.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,


Lawrence Lu
Reg. No. 60,372

Date: 4/1/09
Fish & Richardson P.C.
Citigroup Center
52nd Floor
153 East 53rd Street
New York, New York 10022-4611
Telephone: (212) 765-5070
Facsimile: (877) 769-7945